

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 12 CR 264

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-against- :

United States Courthouse
Brooklyn, New York

ROBERT SCALZA, :

June 27, 2014

Defendant. : 11:00 o'clock a.m.

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TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: LORETTA E. LYNCH
United States Attorney
BY: JACQUELYN KASULIS
Assistant United States Attorney
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For the Defendant: MICHAEL ROSEN, ESQ.

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Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

1 THE CLERK: United States versus Scalza, criminal
2 cause for sentencing.

3 Appearances, please.

4 MS. KASULIS: Jacqueline Kasulis for the United
5 States.

6 Good morning, Your Honor.

7 THE COURT: Good morning.

8 MR. ROSEN: Michael Rosen for Mr. Scalza.

9 Good morning, Your Honor.

10 THE COURT: Good morning.

11 THE DEFENDANT: Robert Scalza.

12 Good morning, Your Honor.

13 THE COURT: Good morning, sir.

14 All right. This is a sentencing for Robert Scalza.

15 Mr. Scalza, are you satisfied with the assistance
16 that your attorney has given you thus far in this matter?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Okay. I have the following materials
19 that I have reviewed for purposes of this sentencing.

20 There is a presentence investigation report dated
21 April 25, 2014. Mr. Rosen, have you shared that with your
22 client?

23 MR. ROSEN: Yes, I have.

24 THE COURT: Have you answered any and all questions
25 that he had about it?

1 MR. ROSEN: Yes, Your Honor.

2 THE COURT: Mr. Scalza, do you understand the
3 contents of this report?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Very well.

6 Then there is a submission from the defense dated
7 June 17, 2014, which sets forth certain objections to the
8 presentence report, and also in the nature of a sentencing
9 memorandum. In addition, there are a number of letters from
10 members of the defendant's family and colleagues, business
11 colleagues, and personal friends, that I have also reviewed.

12 Has the government seen that?

13 MS. KASULIS: Yes.

14 THE COURT: Okay.

15 MR. ROSEN: Judge Garaufis, yesterday there was a
16 document filed, 218, a one-page document filed on ECF, just
17 briefly responding to the government.

18 THE COURT: I have your letter of June 26th. Is
19 that what it is?

20 MR. ROSEN: Yes, sir.

21 THE COURT: Yes.

22 MR. ROSEN: Okay.

23 THE COURT: Responding to the government's letter,
24 which you acknowledge receipt of of June 25th.

25 MR. ROSEN: Yes, sir.

1 THE COURT: All right. I have read those two
2 documents as well. I don't think there is any response from
3 the Probation Department as to your objections to the PSR.

4 MR. ROSEN: I think there are, Judge. There is an
5 addendum.

6 THE COURT: I don't have it.

7 MS. KASULIS: It is dated May 15, 2014. I can hand
8 it up to Your Honor.

9 MR. ROSEN: May 15, 2014.

10 THE COURT: Let me just take a quick look at it.

11 MR. ROSEN: Okay.

12 (Pause.)

13 THE COURT: All right. I have read the addendum to
14 the presentence report dated May 15, 2014. I just point out
15 that the Court is not considering an upward departure. So
16 question of paragraphs 20 through 22 which could serve as
17 foundation for an upward departure according to the addendum
18 are not relevant to the computation of the sentence.
19 Certainly, they are not relevant to the computation of the
20 guideline.

21 Is that basically correct?

22 MR. ROSEN: Yes, sir.

23 MS. KASULIS: Yes, Your Honor.

24 THE COURT: All right. As to these other changes,
25 is there anything else you would like to say about them?

1 MR. ROSEN: I think I have one thing to say about
2 paragraph 34, and that is the two-level adjustment, upward
3 adjustment that the Probation Department ascribed to the base
4 offense level of 18, which the government and the defense had
5 agreed was the appropriate base level of 18. I think the
6 government stated in its letter at page two that it does not
7 intend to present evidence or otherwise argue at sentencing in
8 support of a two-level enhancement for implied threat of
9 bodily harm.

10 That would take care of all the objections. The
11 other objection that I think was made was a mathematical
12 estimate of some monthly payments of Mr. Scalza.

13 THE COURT: It was an annual payment, not a monthly
14 payment. It's computed on an annual basis but referenced on a
15 monthly basis. I understand that that's just an accountant's
16 error, basically.

17 MR. ROSEN: We have no other objections to put
18 before you.

19 THE COURT: The Court wouldn't predicate a fine on
20 that kind of a mistake, in any event.

21 MR. ROSEN: Okay. But there are no other
22 objections.

23 THE COURT: The government's calculation of the
24 computation of the guideline then, which does not include that
25 two-level enhancement, is the total offense level of ten,

1 criminal history category of one. Is that basically correct?

2 MS. KASULIS: That is correct, Your Honor.

3 THE COURT: All right.

4 MR. ROSEN: Yes.

5 MS. KASULIS: That includes the two-level global
6 plea disposition reduction because Mr. Scalza and his
7 codefendants did plead in this case by the date set forth in
8 the plea agreements.

9 THE COURT: Let's just go over the guideline
10 calculation in the presentence report. The base offense level
11 they have is a 20; right?

12 MR. ROSEN: Yes.

13 MS. KASULIS: Correct.

14 THE COURT: Less four levels for minimal role,
15 right?

16 MR. ROSEN: Yes.

17 THE COURT: That brings us to a 16.
18 Less three levels for acceptance, right?

19 MS. KASULIS: Correct.

20 THE COURT: Brings us to a 13.

21 And then less what?

22 MS. KASULIS: Two points for the global disposition,
23 Your Honor.

24 THE COURT: Brings us to eleven. And then that's
25 it?

1 MS. KASULIS: That's the calculation by Probation,
2 yes.

3 THE COURT: Then your calculation though?

4 MS. KASULIS: Our calculation is one point
5 different. It starts with an 18 instead of a 20. Because we
6 are not including the two-point enhancement for threat of
7 injury.

8 THE COURT: Right.

9 MS. KASULIS: Minus four, which we are all in
10 agreement applies.

11 THE COURT: Right.

12 MS. KASULIS: So that's 14. And then minus two for
13 acceptance of responsibility, which would be 12.

14 MR. ROSEN: Right.

15 MS. KASULIS: Because the base offense level prior
16 to applying the acceptance of responsibility reductions is
17 below 16, then he doesn't get the additional --

18 THE COURT: It is the third point?

19 MS. KASULIS: That's the reason for the ultimate one
20 point difference and two-point reduction for global
21 disposition. So we end up with a ten.

22 THE COURT: Right. The Court agrees with that,
23 assuming that you agree with that.

24 MR. ROSEN: I do, sir.

25 THE COURT: All right. The Probation Department is

1 directed to revise the computation of the offense level for
2 Count Twelve, extortion conspiracy, in such a way as described
3 by the government just now so that the adjusted total offense
4 level is a ten. The defendant is in criminal history
5 Category 1, and the range of incarceration under the
6 guidelines is six to 12 months in the custody of the Attorney
7 General.

8 Is that agreeable to everyone?

9 MS. KASULIS: Yes, sir.

10 MR. ROSEN: Yes.

11 That comes out, as I have calculated it, to what
12 they call Zone B.

13 THE COURT: Zone B, yes.

14 MR. ROSEN: All right.

15 THE COURT: I am just saying, it's six to 12 months,
16 which is in Zone B.

17 MR. ROSEN: Okay.

18 THE COURT: Okay. We have resolved that.

19 The next step then is to discuss the imposition of a
20 sentence that is sufficient but not greater than that
21 necessary to fulfill the purposes of sentencing under 18
22 United States Code Section 3553(a). One of the factors that
23 is taken into account is the guideline calculation, but there
24 are many other factors as well, and for that reason it is
25 important to hear from counsel on that subject. Mr. Rosen.

1 MR. ROSEN: Thank you, Judge.

2 Your Honor, one of the elements or one of the
3 factors, the seven factors in 3553(a) is the history and
4 characteristics of a defendant, along with the seriousness of
5 the crime, the need for deterrence, respect for the law, and I
6 have taken all of that into consideration in making my
7 argument to Your Honor, that an appropriate sentence and a
8 fair sentence, in my opinion, would be a sentence of
9 probation, which is permissible under Zone B.

10 Mr. Scalza will be 69 in August. He is married to
11 Patricia, who is here in court, 45 years. They have two adult
12 children, one of whom is here today, Tara, and Dana, who gave
13 birth this week to his third grandchild, and, Judge, thank you
14 for allowing him and Mrs. Scalza to travel to Baltimore to
15 attend the birth of this grandchild.

16 This felony conviction, Judge Garaufis, will be a
17 permanent stain on this man's reputation, on this man's name
18 for the rest of his life. I will tell you that he is a very
19 sad man because of that, and to use the word broken may be a
20 little bit of hyperbole but basically he is, and in my 50
21 blessed years to be in this Court, I never dealt with a
22 defendant who that is more remorseful and contrite for his
23 conduct and I think that this has been a very painful and
24 extraordinarily excruciating experience.

25 But, additionally, this conviction results in the

1 loss of his employment and union position. He has been a
2 union fellow for 40 years. It is very painful punishment for
3 him, and he has worked constantly since he graduated high
4 school. I think there wasn't a year that I saw a gap in his
5 employment from high school until today.

6 I did want to raise the one point in the plea
7 agreement where, you know, under the Section 504 of the labor
8 Management Reporting and Disclosure Act, he will be barred for
9 13 years for any employment or officership in a union. The
10 law permits, however, that the sentencing judge can reduce
11 that 13 years but at least has to impose a three-year bar. I
12 am going to ask Your Honor to, most respectfully, consider
13 that three-year figure and the government does not oppose that
14 request.

15 THE COURT: Is that right?

16 MS. KASULIS: That is correct. It's contained in
17 the plea agreement, Your Honor.

18 THE COURT: All right. The Court is going to grant
19 that application, that the bar should be the statutory minimum
20 of three years.

21 MR. ROSEN: Okay.

22 MS. KASULIS: Your Honor, just to make the record,
23 the government did submit to counsel this morning a letter
24 from the Department of Labor in light of Mr. Scalza's
25 sentencing today that he is barred from any union positions

1 including being a consultant. I think he's acting in that
2 capacity right now.

3 THE COURT: Until he's sentenced?

4 MS. KASULIS: Correct. So he was acting as a
5 consultant until today.

6 THE COURT: We know that. That was disclosed, was
7 it not?

8 MS. KASULIS: It was, absolutely.

9 So the Department of Labor asked me to serve a
10 letter on Mr. Scalza telling him he is now barred from further
11 union activity for the time period that Your Honor sets forth
12 in today's sentencing.

13 THE COURT: Okay.

14 Go ahead. You may continue, Mr. Rosen.

15 MR. ROSEN: Thank you.

16 We do want to express additional appreciation for
17 Your Honor allowing him to stay in that limited role until
18 today.

19 Judge, a 69-year old offender stands before you,
20 criminal history one, no criminal history points even, and was
21 accorded a minimal role in this offense. The plea agreement
22 does that. The presentence report does that. That is the
23 beginning of the picture of this man that I am trying to
24 convey to you. But the letters that I did submit to Your
25 Honor echo a consistent and repetitive theme of a man whose

1 traits, history, characteristics, and whole being seem to be
2 one that is dedicated to his family, devoted, a lifetime
3 devotion to his union, unionism. And I know what that is
4 because my dad was a labor man for many years and I know that
5 you can get really caught up in that sphere, if it's inside.
6 I think one of the letter writers called it not a job of his
7 but a passion, and I think that's what it was. Also, the
8 letters that I submitted show his community involvement, his
9 charitable endeavors. He is a good man who did something
10 wrong and that's just the picture.

11 The people that worked for him, with him, in the
12 union, submitted letters to Your Honor, again describing him
13 as hard working, dedicated and decent, which is a quality that
14 I champion, having gotten to know him so well at this time.

15 An employer from a shop, a Mr. Breen, the attorney
16 for the Welfare Fund, I believe, Mr. Iacarrino (ph), also
17 championed his dedication and his strong work ethic. A
18 neighbor of 35 years, Doctor Jack Soterakis (ph), refers to
19 Mr. Scalza as a caring, loyal and trusted friend, who is
20 involved in their community as well. But he also notes, as I
21 think I mentioned to Your Honor, Mr. Scalza's shame and
22 contrition for his conduct here, and this is somebody who has
23 been a neighbor of his for 35 years.

24 Finally, Mr. Scalza's family relates a loving and
25 nurturing relationship with him that has endured throughout

1 the years. His brother Perry is here, daughter Tara is here,
2 and I think their letters -- I can't say more than their
3 letters say.

4 So in arguing for a non-jail sentence, I usually
5 begin to articulate the concept that came out of Gall, that a
6 sentence of probation is not a slap on the wrist but a
7 substantial and significant deprivation of freedom and
8 liberty, with all its conditions, with all its
9 responsibilities, and all its time sensitive obligations.
10 This is a significant sentence.

11 I am sorry, because I do this almost all the time,
12 and I have to refer to post-Booker sentencing and that is
13 Judge Dearie's comment, I think it was made to one of the
14 media after Booker was decided and he heralded it and he
15 almost rejoiced in saying, "It at least returned judging to
16 judges." To me, that's -- I know there has been a lot of
17 amazing Supreme Court decisions, even as late as yesterday,
18 but I thought his reaction to that decision was just right to
19 the point. It solidified my view that I have held all these
20 years in this Court that the imposition of sentencing should
21 be sufficient but not, as Your Honor says, greater than
22 necessary to achieve the purposes of 3553(a). That includes
23 individualized sentencing.

24 I mean, this is a specific human being, with a
25 specific background, who, yes, pled to a federal violation.

1 There is no question about it. We don't minimize that. But
2 the concept of the punishment fitting his actions, the
3 individualized sentencing, and a sentence that is sufficient
4 but not greater than necessary.

5 Justice Sotomayor in Pepper, which I also cited to
6 you in my letter, took the viewpoint that 3553(a) judges as
7 trying to elicit the fact that a Court should try in an
8 appropriate case to impose the least onerous sentence that
9 comports with the principles or the goals of sentencing.

10 I noticed one thing, that the opinion did even
11 indicate that at times, in an appropriate case, the
12 characteristics -- nature and Characteristics of a defendant
13 could be as persuasive as the offense itself. I think that
14 sort of sets the table of why I am asking Your Honor to
15 consider a non-jail sentence.

16 Yes, he is going to be barred from his passion, and
17 yes, he'll have this lifetime mantle of a felony conviction
18 and a stain on his name. Yes, a man with minimal
19 participation and zero criminal history points is a worthy
20 candidate to be considered for that kind of relieve.

21 I think that kind of a sentence, Judge Garaufis, for
22 Mr. Scalza, with his age and his decent background, does show
23 respect for the law because the law is really a two-way
24 street, Your Honor please. When there is a worthy candidate
25 for some relief, that's part of the law. I mean, probation is

1 part of the law. A sentence of probation is part of what can
2 happen under Zone B. So that's respect for the law as well
3 and deals with the seriousness of the offense.

4 And as a deterrence to others, Judge Garaufis, I
5 have to think that anybody else thinking of doing what
6 happened here, actually, what Mr. Scalza personally was
7 involved with, who is not a young guy, who is going to lose
8 his job, who is going to face perhaps hopefully years of
9 supervision and conditions, has to be deterred by that kind of
10 a sentence. Certainly, Mr. Scalza, in my humble opinion,
11 doesn't need any individual deterrence. I can't imagine that
12 he'll ever be in this kind of a situation again.

13 For all those reasons I ask Your Honor to consider
14 the imposition of a non-jail sentence on Mr. Scalza.

15 THE COURT: Thank you.

16 Ms. Kasulis.

17 MS. KASULIS: Yes, Your Honor. I will keep my
18 comments brief.

19 We were engaged in extensive plea negotiations in
20 this case. I think we are in agreement that a sentence
21 somewhere within the guidelines range of six to 12 months is
22 appropriate considering the facts and circumstances. Because
23 it is a Zone B offense, that sentence can be comprised of a
24 number of things, obviously. It can be a combination of
25 probation, with some sort of home detention, component of that

1 sentence. It can include a term of imprisonment. I think we
2 are in agreement that some -- some term of -- some sentence
3 that's within the six to 12-month range is appropriate here.

4 The government has no doubt that Mr. Scalza is an
5 excellent husband and father and friend and that he has done a
6 lot for the membership of his union in the time that he has
7 functioned as a union official. But what the government finds
8 disturbing is Mr. Scalza's association with organized crime,
9 in particular, his association with a codefendant, Conrad
10 Ianniello, who is a powerful captain, who has no business
11 being involved in the affairs of Mr. Scalza's union.

12 I think it is concerning that organized crime
13 continues to have an association and continues to have a grip
14 on unions. I have been prosecuting organized crime cases for
15 over five years and far too many of the cases I have
16 prosecuted have involved unions. Unfortunately, from all
17 different kinds of unions, from carpenters, to waterfront, to
18 unions along the lines of Mr. Scalza's union.

19 This is one of the last areas where organized crime
20 still really exerts influence and control, and I think there
21 is a message that needs to be sent here, Your Honor, both to
22 Mr. Scalza, who I have no doubt after three years will become
23 involved again in unions, and to the community at large, that
24 this kind of association cannot continue. It doesn't benefit
25 the union membership. It doesn't benefit the people at the

1 chocolate factory who had the right to consider the benefits
2 of two competing unions and then to pursue the union that best
3 suits them and best allows them to have their needs met.

4 THE COURT: What company was that, what chocolate
5 factory?

6 MS. KASULIS: I am not certain, Your Honor.

7 THE COURT: It is just a chocolate factory in
8 Suffolk County?

9 MR. ROSEN: Yes.

10 THE COURT: Long Island?

11 MR. ROSEN: Yes. And -- there were two different --

12 THE COURT: A competing union?

13 MS. KASULIS: Unions.

14 THE COURT: Choices?

15 MS. KASULIS: Correct.

16 But this is -- unions are supposed to be about
17 benefiting the membership. When organized crime is involved
18 in unions, the union members are not best served by their
19 membership. That is the bottom line.

20 So in this instance, the government's position is
21 that a sentence within the six to 12-month range, whether
22 that's comprised of probation or some term of incarceration,
23 is appropriate.

24 THE COURT: There is a difference between probation
25 and incarceration.

1 MR. ROSEN: Right.

2 THE COURT: I don't understand your point. Is your
3 point that there should be some incarceratory sentence that's
4 within the guideline range? Is that the government's
5 position?

6 MS. KASULIS: The government's position is that if a
7 term of probation is appropriate here, and it may be, Your
8 Honor, that some form of home detention that goes along with
9 that term of probation would be appropriate in this instance.

10 THE COURT: I see. Okay. Thank you.

11 MS. KASULIS: I believe the guidelines actually call
12 for Your Honor, if a probationary sentence is imposed, but
13 there is some -- some component of detention, whether it's
14 detention in a community center or home detention or some sort
15 of detention along those lines that don't involve a prison.

16 THE COURT: Thank you.

17 Anything else from you, Mr. Rosen?

18 MR. ROSEN: No, sir.

19 THE COURT: Can I hear from you? Do you have
20 anything that you would like to say to the Court before I
21 sentence you, Mr. Scalza?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Okay. Please.

24 THE DEFENDANT: I would just like the Court to know
25 that I am sincerely and truly remorseful for my conduct here

1 and mostly for the nightmarish ordeal that I have put my
2 family through. The loss of my life's work and the
3 humiliation has cost me dearly and that the circumstances that
4 have me here before you, Your Honor, and what has transpired
5 is not indicative to who I truly am and that I can guarantee
6 you, Your Honor, I will never run afoul of the law again.

7 THE COURT: Thank you.

8 THE DEFENDANT: Thank you.

9 THE COURT: The Court is extremely concerned about
10 the problem of organized crime infiltration into the work of
11 labor unions and also businesses because organized crime
12 doesn't draw a distinction between how it gains a foothold in
13 a business, putting someone at the cash register who is taking
14 part of the proceeds -- we've had that in this Court -- or a
15 labor union somehow benefiting from a decision that's made by
16 the membership to join a certain local of a certain union as
17 opposed to another.

18 So this is not just about labor unions, frankly.
19 This is about infiltration of organized crime getting a
20 foothold anywhere there is money to be sucked out of an
21 entity. So no one should think that because this involved a
22 labor union it was somehow endemic only to a labor union
23 situation. I just want to point that out.

24 The Court has the greatest respect for organized
25 labor and also for unorganized labor. But organized labor

1 protects the rights of hard-working people to be properly
2 rewarded for their work and unfortunately, Mr. Scalza, you
3 made a big mistake in your association with someone else who
4 did not have those interests at the forefront of his
5 consideration, according to the government. You have admitted
6 that you made a mistake, which is very important. You have
7 had many years of creditable employment in the labor movement.
8 That counts for a lot in this Court. You should be proud of
9 the work which you have done which has benefited hard-working
10 people. So I don't want to minimize that either. All of that
11 is very important. But ordinarily, with this kind of an
12 offense, it is my view that jail time is appropriate.

13 There are other factors that Mr. Rosen points out,
14 and that I certainly take into account, having to do with the
15 lengths of your law-abiding service in the labor movement, the
16 length of your life, your good works, and so forth, that also
17 must be taken into account.

18 I think that in your case, despite the fact that I
19 am strongly disposed to some form of jail time, I am going to
20 try to organize a sentence in your case which will avoid your
21 going to jail. But that is not to say that I am not deeply
22 distressed and concerned about this incident. It is only an
23 incident, but it is a very serious incident. I just wanted to
24 make that clear to you.

25 Are you ready to be sentenced?

1 THE DEFENDANT: Yes, Your Honor.

2 MR. ROSEN: Yes, Your Honor.

3 THE COURT: I am imposing the following sentence.

4 The government tells me that I can impose a sentence of
5 probation because we are in Zone B.

6 MS. KASULIS: That is correct.

7 THE COURT: All right. I am going to impose the
8 following sentence:

9 Three years of probation, the first six months of
10 which will be on home detention. You will only be allowed to
11 leave home to go to the doctor, to go to religious services,
12 or to come to court, if you ever have to, or for some other
13 purpose that is approved by your Probation Officer.

14 I am going to impose a substantial fine on you of
15 \$30,000 due immediately and payable at ten percent of your
16 gross monthly income while on supervised release. Interest is
17 waived.

18 Make that \$15,000, not 30,000. It would be 30,000
19 but since you are not going to be able to work, I think
20 15,000, and just make it payable immediately. You certainly
21 have the assets to pay the 15,000. So you are going to pay
22 the 15,000 now.

23 Subject to the following other conditions of
24 probation:

25 Full financial disclosure to the Probation Officer.

1 You shall not possess a firearm, ammunition or
2 destructive device.

3 You shall not associate in person, through mail,
4 telephone or electronic communication, with any individual
5 with an affiliation to any organized crime groups, gangs or
6 other criminal enterprise pursuant but not limited to a
7 prohibition list provided by the United States Probation
8 Department, nor shall you frequent any establishment or other
9 locale identified by the Probation Department as a location
10 where these persons or groups may meet.

11 I am also imposing a condition that you engage in
12 500 hours of community service, either with young people with
13 disabilities or with the elderly.

14 In addition, there is a \$100 special assessment,
15 which is mandatory.

16 You have the right to appeal your sentence to the
17 United States Court of Appeals for the Second Circuit if you
18 believe the Court has not properly followed the law in
19 sentencing you. Your time to appeal is extremely limited and,
20 therefore, you should discuss with Mr. Rosen whether an appeal
21 would be worthwhile.

22 I note also that in your plea agreement you agreed
23 not to appeal or otherwise challenge the sentence that I
24 impose upon you if it is 12 months or below. So your right to
25 appeal may be further limited by your contractual agreement

1 with the government in that regard.

2 Do you understand all that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Counts One and Thirteen are open.

5 MS. KASULIS: Your Honor, the government moves to
6 dismiss those counts.

7 MR. ROSEN: No objection.

8 THE COURT: All right. That motion is granted
9 without objection.

10 Is there anything further today from the government?

11 MS. KASULIS: No, Your Honor. The only thing is
12 that Your Honor is ordering a three-year ban?

13 THE COURT: And, in addition, the government
14 separately orders -- if you want to give me an order to sign,
15 I will sign the order -- a three-year ban on any involvement
16 of the defendant with labor organizations, whether as a
17 member, an officer, or a consultant.

18 MS. KASULIS: The government will submit such a
19 motion, Judge.

20 THE COURT: All right.

21 MR. ROSEN: Yes, Your Honor.

22 THE COURT: Anything else from you, Mr. Rosen?

23 MR. ROSEN: The only thing else, number one, I am
24 very grateful for Your Honor's consideration. Is there a
25 possibility, since he's now losing his job, that there could

1 be with home confinement the ability to go out and get a job
2 and work or -- and even, for example, I don't want to use the
3 wrong word, but like a curfew where he could see his
4 grandchildren or even --

5 THE COURT: No. It is home confinement. It is
6 either home confinement or jail.

7 MR. ROSEN: I got it.

8 THE COURT: So it's home confinement.

9 MR. ROSEN: I got it.

10 THE COURT: Unless his wife tells me she'd rather
11 have him away for six months. I don't see that.

12 MR. ROSEN: I got it.

13 THE COURT: But the point is, it is punishment.

14 MR. ROSEN: Yes.

15 THE COURT: It is punishment. Let the family come
16 to him.

17 MR. ROSEN: Got it.

18 THE COURT: It is nice when they come to see
19 grandpa.

20 MR. ROSEN: I can attest to that.

21 THE COURT: You see, you are lucky. You've got
22 grandchildren.

23 MR. ROSEN: Yes, sir.

24 THE COURT: I am still waiting.

25 MR. ROSEN: Okay.

1 THE COURT: Okay. I am in no hurry but I am
2 waiting. I don't want you to go back to my kids and tell
3 them.

4 MR. ROSEN: No, I won't.

5 THE COURT: That's the point.

6 MR. ROSEN: I got it.

7 THE COURT: The point is, it is punishment. It is a
8 form of punishment that is not so jarring as other forms of
9 punishment, because you made your arguments and your
10 submissions and the defendant has shown his remorse and the
11 Court has heard those messages and the outcome is what it is.

12 MR. ROSEN: Thank you.

13 THE COURT: Good luck.

14 MR. ROSEN: Thank you.

15 MS. KASULIS: Thank you, Your Honor.

16 THE COURT: For the home confinement, voice
17 verification will be sufficient, as opposed to electronic
18 monitoring.

19 MR. ROSEN: Thank you.

20 THE COURT: You do have a hardwired phone in your
21 house, do you not?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right. That's what they will use.

24 MR. ROSEN: Okay. Thank you.

25 MS. KASULIS: Thank you, Judge. (Matter concludes.)

C E R T I F I C A T I O N

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled
matter.

s/Gene Rudolph, Official Court Reporter

Date: July 2, 2014

GR

OCR

CM

CRR

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